

DONALD L. HOWELL, II
 DAPHNE HUANG
 DEPUTY ATTORNEYS GENERAL
 IDAHO PUBLIC UTILITIES COMMISSION
 472 WEST WASHINGTON STREET
 PO BOX 83720
 BOISE, ID 83720-0074
 Idaho Bar Nos. 3366 and 8370
 Tele: (208) 334-0312
 (208) 334-0318
 Fax: (208) 334-3762
 E-mail: don.howell@puc.idaho.gov
daphne.huang@puc.idaho.gov

RECEIVED
 2015 MAY 21 PM 3:56
 IDAHO PUBLIC UTILITIES COMMISSION

Attorneys for Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO POWER)	
COMPANY’S PETITION TO MODIFY)	CASE NO. IPC-E-15-01
TERMS AND CONDITIONS OF PURPA)	
PURCHASE AGREEMENTS)	
)	
<hr/>		
IN THE MATTER OF AVISTA)	
CORPORATION’S PETITION TO MODIFY)	CASE NO. AVU-E-15-01
TERMS AND CONDITIONS OF PURPA)	
PURCHASE AGREEMENTS)	
)	
<hr/>		
IN THE MATTER OF ROCKY MOUNTAIN)	
POWER COMPANY’S PETITION TO)	CASE NO. PAC-E-15-03
MODIFY TERMS AND CONDITIONS OF)	
PURPA PURCHASE AGREEMENTS)	STAFF’S ANSWER OBJECTING TO
)	ECOPLEXUS’S MOTION TO LATE
)	FILE DIRECT TESTIMONY
)	

COMES NOW, the Staff of the Idaho Public Utilities Commission by and through its attorneys of record and files this answer objecting to Ecoplexus’s May 18, 2015 Motion to Late File the Direct Testimony of its witness. Ecoplexus’s Motion to Late File was received six days after its Petition to Intervene. In both Ecoplexus’s Petition and Motion, Ecoplexus asserted that its participation “will not broaden the issues, delay the proceedings or result in prejudice to any party.” Petition and Motion at 2. On May 19, 2015, Ecoplexus filed an “Errata” to its late-filed

STAFF’S ANSWER OBJECTING TO
 ECOPLEXUS’S MOTION TO LATE
 FILE DIRECT TESTIMONY

Petition to Intervene and its Motion to Late File Direct Testimony. In its Errata, the solar developer acknowledged that Idaho Power had actually notified Ecoplexus that Idaho Power had “filed a Petition in this case.” Errata at 1.

ARGUMENT

Although Staff did not object to Ecoplexus’s Petition to Intervene, Staff does object to Ecoplexus’s Motion to Late File the Direct Testimony of its witness. Despite Ecoplexus’s assertion set out in its Motion that the late filing of the testimony of its witness, Erik A. Stuebe, “will not broaden the issues, delay the proceedings, or result in prejudice to any party,” allowing his testimony to be filed at this point will result in just the opposite. Staff urges the Commission to deny the Motion for the following reasons.

First and foremost, if the Commission grants Ecoplexus’s Petition to Intervene, such intervention is conditioned by Rule 73. In pertinent part, this rule provides that “intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition.” IDAPA 31.01.01.073. The Commission’s Scheduling Order No. 33253 required that intervenor direct testimony be filed no later than April 23, 2015, and intervenor rebuttal testimony be filed no later than May 14, 2015. Neither Ecoplexus’s Motion nor proposed testimony was timely-filed. Thus, the solar developer is not in compliance with the Commission’s Scheduling Order.

In addition, Ecoplexus’s rationale supporting the late filing of its testimony is without merit. Ecoplexus’s initial claim that it was never informed by the utilities of these proceedings was withdrawn in the Errata to its Motion. In its Errata the developer acknowledged that it did receive actual notice from Idaho Power in February 2015, that the utility had filed its Petition in this case. Errata at 1.

Second, contrary to the assertions of Ecoplexus, allowing the introduction of the proposed testimony of its witness will broaden the issues. In particular, Mr. Stuebe’s proposed direct testimony introduces several new issues. On page 8 of his testimony between lines 14 and 18, the witness suggests that “the Commission should consider introducing a REC or Compliance Certificate value in its QF contracts and requir[e] that any in state QFs the utilities contract with must deliver the RECs to the utilities.” Staff maintains that the issue of including a REC value in QF contracts and the allocation of RECs is a new issue in this proceeding. In

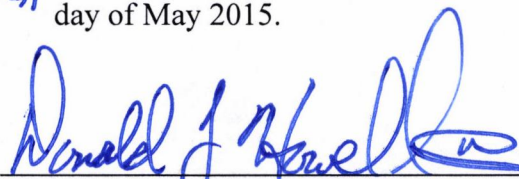
addition, the witness's proposed testimony on pages 10-12 alleges that Ecoplexus perfected a legally enforceable obligation (LEO) with PacifiCorp. This allegation is beyond the scope of this proceeding and contrary to the long-established procedures for processing PURPA complaints.

Finally, introduction of Ecoplexus's proposed testimony at this stage of the case results in prejudice to the Staff. When the Commission initiated this case, it directed "the parties to establish an expedited case schedule." Order No. 33222 at 4. As the Commission is well aware, the deadline for Staff filing rebuttal testimony to any intervenor was May 14, 2015. Thus, unless the schedule is changed, Staff has been denied its opportunity to rebut this proposed testimony and to engage in discovery to evaluate the old and new issues raised by Ecoplexus. Instead of filing the proposed testimony with its Petition to Intervene on May 12, 2015, the developer did not file its Motion to late file testimony until May 18, well after the date that direct and rebuttal testimony were to be filed.

CONCLUSION

For the reasons set out above, Staff urges the Commission to deny Ecoplexus's Motion to Late File Direct Testimony of Mr. Stuebe. The Commission should deny the Motion to Late File Testimony as consistent with Commission Rule 73 and 74, thereby maintaining the integrity of the Commission-ordered schedule. Moreover, Rule 73 provides that "Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition." This rule prohibits the filing of testimony outside of the schedule contained in Order No. 33253 issued March 18, 2015.

Respectfully submitted this 21st day of May 2015.



Donald L. Howell, II
Deputy Attorney General

bls:N:IPC-E-15-01_AVU-E-15-01_PAC-E-15-03_dh2_Staff Response

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 21st DAY OF MAY 2015, SERVED THE FOREGOING **STAFF'S ANSWER OBJECTING TO ECOPLEXUS'S MOTION TO LATE FILE DIRECT TESTIMONY**, IN CASE NOS. IPC-E-15-01/PAC-E-15-03/AVU-E-15-01, BY E-MAILING A COPY THEREOF TO THE FOLLOWING:

DONOVAN E WALKER
REGULATORY DOCKETS
IDAHO POWER COMPANY
PO BOX 70
BOISE ID 83707-0070
E-mail: dwalker@idahopower.com
dockets@idahopower.com

PETER J RICHARDSON
GREGORY M ADAMS
RICHARDSON ADAMS PLLC
PO BOX 7218
BOISE ID 83702
E-mail: peter@richardsonadams.com
greg@richardsonadams.com

DR DON READING
6070 HILL ROAD
BOISE ID 83703
E-mail: dreading@mindspring.com

BENJAMIN J OTTO
ID CONSERVATION LEAGUE
710 N 6TH STREET
BOISE ID 83702
E-mail: botto@idahoconservation.org

DEAN J MILLER
McDEVITT & MILLER LLP
420 W BANNOCK ST
BOISE ID 83702
E-mail: joe@mcdevitt-miller.com

LEIF ELGETHUN
INTERMOUNTAIN ENERGY PARTNERS
LLC
PO BOX 7354
BOISE ID 83707
E-mail: leif@sitebasedenergy.com

KELSEY JAE NUNEZ
SNAKE RIVER ALLIANCE
PO BOX 1731
BOISE ID 83701
E-mail: knunez@snakeriveralliance.org

KEN MILLER
SNAKE RIVER ALLIANCE
E-MAIL ONLY:
kmiller@snakeriveralliance.org

TED WESTON
ID REG AFFAIRS MANAGER
ROCKY MOUNTAIN POWER
201 S MAIN ST STE 2300
SALT LAKE CITY UT 84111
E-mail: ted.weston@pacificorp.com

DANIEL E SOLANDER
YVONNE R HOGLE
ROCKY MOUNTAIN POWER
201 S MAIN ST STE 2400
SALT LAKE CITY UT 84111
E-mail: daniel.solander@pacificorp.com
yvonne.hogle@pacificorp.com

DATA REQUEST RESPONSE CENTER
E-MAIL ONLY:
datarequest@pacificorp.com

ERIN CECIL
ARKOOSH LAW OFFICES
E-MAIL ONLY
erin.cecil@arkoosh.com

ANTHONY YANKEL
29814 LAKE ROAD
BAY VILLAGE OH 44104
E-mail: tony@yankel.net

IRION SANGER
SANGER LAW PC
1117 SW 53RD AVE
PORTLAND OR 97215
E-mail: irion@sanger-law.com

CLINT KALICH
AVISTA CORPORATION
1411 E MISSION AVE
MSC-23
SPOKANE WA 99202
E-mail: clint.kalich@avistacorp.com

RICHARD MALMGREN
SR ASSIST GEN COUNSEL
MICRON TECHNOLOGY INC
800 S FEDERAL WAY
BOISE ID 83716
E-mail: remalmgren@micron.com

C TOM ARKOOSH
ARKOOSH LAW OFFICES
PO BOX 2900
BOISE ID 83701
E-mail: tom.arkoosh@arkoosh.com

ERIC L OLSEN
RACINE OLSON NYE BUDGE
& BAILEY
PO BOX 1391
POCATELLO ID 83204-1391
E-mail: elo@racinelaw.net

RONALD L WILLIAMS
WILLIAMS BRADBURY PC
1015 W HAYS ST
BOISE ID 83702
E-mail: ron@williamsbradbury.com

MICHAEL G ANDREA
AVISTA CORPORATION
1411 E MISSION AVE
MSC-23
SPOKANE WA 99202
E-mail: michael.andrea@avistacorp.com

MATT VESPA
SIERRA CLUB
85 SECOND ST 2ND FLOOR
SAN FRANCISCO CA 94105
E-mail: matt.vespa@sierraclub.org

FREDERICK J SCHMIDT
PAMELA S HOWLAND
HOLLAND & HART LLP
377 S NEVADA ST
CARSON CITY NV 89703
E-mail: fschmidt@hollandhart.com

SCOTT DALE BLICKENSTAFF
AMALGAMATED SUGAR CO
1951 S SATURN WAY
STE 100
BOISE ID 83702
E-mail: sblickenstaff@amalsugar.com

CAROL HAUGEN
CLEARWATER PAPER CORPORATION
E-MAIL ONLY
Carol.haugen@clearwaterpaper.com

JOHN GORMAN
ECOPLEXUS, INC.
650 TOWNSEND STREET, SUITE 310
SAN FRANCISCO, CA 94103
E-mail: johng@ecoplexus.com

ANDREW JACKURA
SR VP NORTH AMERICA DEVL
CAMCO CLEAN ENERGY
9360 STATION ST STE 375
LONE TREE CO 80124
E-mail: andrew.jackura@camcocleanenergy.com

JOHN R. HAMMOND, JR.
FISHER PUSCH LLP
101 S. CAPITOL BLVD., SUITE 701
BOISE, ID 83702
E-mail: jrh@fisherpusch.com



SECRETARY